

IN THE DRAWINGS:

Attached herewith are four (4) corrected drawing sheets to be substituted for the corresponding drawing sheets presently on file in the above-identified application. The attached replacement drawing sheets include changes to Figures 1-4. The replacement drawing sheets incorporate the changes required in reply to the Office Action dated March 12, 2009, and are not believed to add new matter to the original disclosure. More specifically, the changes are as follows:

In Fig. 1, the drawing has been amended to number each of the illustrated features.

In Fig. 2, the drawing has been amended to recite Figs. 2a, 2b and 2c and the illustrated features have been numbered.

In Fig. 3, the drawing has been amended to number each of the illustrated features.

In Fig. 4, the drawing has been amended to number each of the illustrated features.

Attachment: Replacement Sheets

REMARKS

This application has been reviewed in light of the Office Action dated March 12, 2009. Claims 46-60 and 65-90 are presented for examination, of which Claim 46 is in independent form. Claims 61-64 have been cancelled, without prejudice or disclaimer of the subject matter presented therein. Claims 46, 47, 52, 65, 67-69, 76, 79, 81 and 83 have been amended to define Applicant's invention more clearly. Favorable reconsideration is requested.

OFFICE ACTION REJECTIONS:

The Examiner has objected to the drawings under 37 CFR 1.83(a) on the grounds that they allegedly fail to show every feature of the invention specified in the claims. Replacements sheets have been submitted herewith and the specification has been amended to conform to the amended drawings.

The Examiner has rejected Claims 1-88 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. First you will note that only claims 46-90 are pending in the case. We believe the recitation of 1-88 is an error. It is respectfully submitted that the claim amendments noted above obviate the rejection Under 35 U.S.C. §112.

Claims 46-90 have been rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by European Patent No. 1064958 A1 to Vyakarnam (Vyakarnam). Applicants respectfully traverse that rejection, particularly in view of the amendment made herein.

Submitted herewith is a Replacement Sheet of corrected drawings, which includes changes to Figs. 1-4.

The present invention is directed to a triphasic prosthetic device having a base component that is comprised of a synthetic ceramic that can be anchored in or onto an osteochondrial environment. The independent claim has also been amended to make clear that at

least 50% of the highly oriented hollow bodies of the polymeric hollow body component are aligned perpendicular to the plane of the articulating surface of the base component. The presently claimed device provides a prosthetic articular cartilage material which has an improved structural stability and provides for accurate positioning in the bone. In addition, the device of this invention is made of materials that are biomechanically able to withstand normal joint forces and to promote repair and replacement of cartilage tissue or cartilage-like tissue. It is respectfully submitted that the advantageous device of the present invention is not disclosed or suggested by the prior art of record.

Vyakarnam relates to porous biocompatible bioabsorbable polymeric foams that have a gradient in composition and/or microstructure that may be used for the repair or regeneration of tissue. Paragraphs [0001] and [0024]. It is also disclosed at paragraph [0030] that the gradient foam structure could consist of three zones. While there is a suggestion at the last sentence of paragraph [0030] that the bottom zone of foam could be reinforced with ceramic particles, there is absolutely no disclosure or suggestion of a bottom or base zone in a triphasic device as presently claimed that is a synthetic ceramic to anchor to the osteochondrial environment. Anticipation requires each and every limitation of a claim be described in a single prior art reference. Accordingly, it is respectfully submitted that Vyakarnam does not anticipate claim 46 or any other dependent claim of the present invention.

In addition, it is respectfully submitted that Vyakarnam does not render the presently claimed invention obvious. The presently claimed device is a triphasic device having a base component that is made of a synthetic ceramic such as hydroxyapatite. The synthetic ceramic base component allows the device to be fixedly anchored in the base so that the hollow body component is accurately positioned in or onto the osteochondrial environment. On the

other hand, Vyakarnam describes a unitary foam device and although the foam microstructure may be comprised of a gradient, there is simply no disclosure or suggestion of a triphasic device having a synthetic ceramic base.

It is noted that the Examiner often refers to Figure 8 of Vyakarnam. This figure, however, is nothing more than the structure of natural cartilage taken from a standard textbook. It does in no way disclose or suggest how to develop a device for the repair of cartilage material. Accordingly, it is respectfully submitted that none of the presently pending claims would have been obvious in view of the prior art of record.

In view of the foregoing amendments and remarks, Applicants respectfully request favorable reconsideration and early passage to issue of the present application.

No petition to extend the time for response to the Office Action is deemed necessary for this Amendment. If, however, such a petition is required to make this Amendment timely filed, then this paper should be considered such a petition and the Commissioner is authorized to charge the requisite petition fee to Deposit Account 06-1205.

Applicants' undersigned attorney may be reached in our New York Office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address listed below.

Respectfully submitted,

/Raymond R. Mandra/
Raymond R. Mandra
Attorney for Applicants
Registration No. 34,382

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
Facsimile: (212) 218-2200

FCHS_WS 3365698_1.DOC